

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

|  |   |                      |
|--|---|----------------------|
| In the Matter of                         | ) |                      |
|  | ) |                      |
| Amendment of Section 73.202(b),          | ) | MB Docket No. 07-124 |
| Table of Allotments,                     | ) | RM-11378             |
| FM Broadcast Stations.                   | ) |                      |
| (Waldport, Dallas, and Monmouth, Oregon) | ) |                      |

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: October 8, 2008**

**Released: October 10, 2008**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division issued a *Notice of Proposed Rule Making* in response to a Petition for Rule Making filed by Radio Beam, LLC (“Petitioner”).<sup>1</sup> The *Notice* proposes to amend the FM Table of Allotments, Section 73.202(b) of the Commission’s rules, by allotting Channel 253A at Waldport, Oregon, as a second local service. In order to accommodate that allotment, the Notice further proposes to amend the FM Table of Allotments by substituting Channel \*236C3 for vacant and unapplied for Channel \*252C3 at Dallas, Oregon.<sup>2</sup>

2. Petitioner filed comments supporting the allotment changes proposed in the *Notice*. David J. Miller (“Miller”), President and General Manager of Yaquina Bay Communications, Inc. (“Yaquina”), and Pacific West Broadcasting, Inc. (“Pacific”), submitted comments in opposition to the proposed allotment of Channel 253A at Waldport, Oregon.<sup>3</sup> Miller states that Petitioner should try to serve other communities rather than seeking a new allotment at Waldport. Specifically, Miller argues that Petitioner should provide service using vacant and unapplied for Channel \*252C3 at Dallas, Oregon. Miller further states that Channel \*252C3 at Dallas would serve a larger population and provide service to areas receiving fewer signals than the number of reception services available within the proposed Waldport service area.

3. A counterproposal was filed by Radio Bilingue, Inc. (“Bilingue”). In lieu of the allotment changes proposed by Petitioner, Bilingue advocates reallocating vacant Channel \*252C3 at Turner,

---

<sup>1</sup> *Waldport, Dallas, and Monmouth, Oregon*, Notice of Proposed Rule Making, 22 FCC Rcd 11,606 (MB 2007) (“*Notice*”).

<sup>2</sup> In order to accommodate that allotment change, Petitioner has requested a channel substitution for its own station, Station KSND(FM), Monmouth, Oregon. Petitioner requests the substitution of Channel 252C3 for Channel 236C3 at Monmouth.

<sup>3</sup> Yaquina is the licensee of KYTE(FM), Newport, Oregon; KNPT(AM), Newport, Oregon,; and KCRF(FM), Lincoln City, Oregon. Pacific is the licensee of KNCU(FM), Gleneden, Oregon, and KBCH(AM), Lincoln City, Oregon.

Oregon, and allotting new FM Channel 229C2 at Waldport. Bilingue argues that Channel \*252C3 at Dallas, its current allotment community, is a potential third full-time local service, whereas moving the allotment to Turner would provide that community with a first full-time local service. Moreover, Bilingue contends that the site restrictions that would be necessary to substitute Channel \*236C3 for Channel \*252C3 at Dallas, as proposed by Petitioner, would hamper the ability to provide noncommercial educational service to the central Willamette Valley. Bilingue declares that, if its allotment proposal is adopted, it will apply for and build a station to provide service using Channel \*252C3 at Turner, Oregon. As for the new FM allotment at Waldport, Bilingue states that it is possible to allot FM Channel 229C2 at Waldport, without site restriction and without change to the Dallas and Monmouth allocations.

4. Petitioner submitted reply comments in response to the notice of Bilingue's counterproposal.<sup>4</sup> Petitioner states that it does not object to the allotment of Channel 229C2 at Waldport, Oregon, in lieu of Channel 253A, and declares its interest in applying for Channel 229C2 at Waldport. Petitioner states that, if the Commission allots Channel 229C2 at Waldport, it will file an application for that channel and will construct facilities if the application is granted. Petitioner opposes Bilingue's proposal to reallocate vacant Channel \*252C3 from Dallas to Turner, Oregon. Petitioner notes that, during proceedings in MB Docket No. 04-124, several parties expressed an interest in Channel \*252C3 at Dallas. Petitioner points out that it is Commission policy not to reallocate a channel in which interest has been expressed.

5. We believe that the public interest would be served by the allocation of Channel 229C2 at Waldport, rather than the allocation of Channel 253A, as proposed in the *Notice*. This allotment will provide Waldport with its first competitive service, without the need for channel substitutions at other communities. Miller's argument that Petitioner should use the existing vacant reserved allotment at Dallas to provide service, rather than seeking a new allotment at Waldport, does not in any way demonstrate that the proposed Waldport allotment would be contrary to the public interest. Channel 229C2 can be allotted at Waldport, Oregon, at city reference coordinates, without site restriction.<sup>5</sup>

6. As to Bilingue's proposal to reallocate vacant Channel \*252C3 from Dallas to Turner, Oregon, we concur with Petitioner that this change of community proposal should be rejected due to the prior expressions of interest in Channel \*252C3 at Dallas.<sup>6</sup>

---

<sup>4</sup> *Public Notice*, Report No. 2858 (*rel.* Mar. 28, 2008).

<sup>5</sup> The reference coordinates for Channel 229C2 at Waldport, Oregon, are the following: 44-25-37 NL and 124-04-02 WL.

<sup>6</sup> See *Montrose and Scranton, Pennsylvania*, 5 FCC Rcd 6305 (1990). See also *Cordele, Georgia*, 12 FCC Rcd 9777 (MMB 1997); *Billings and Lewistown, Montana*, 6 FCC Rcd 3632 (MMB 1991); and *Casper and Sheridan, Wyoming*, 6 FCC Rcd 2880 (MMB 1991).

7. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.<sup>7</sup>

8. Accordingly, IT IS ORDERED, That effective November 24, 2008, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED as follows:

| <u>Community</u> | <u>Channel Number</u> |
|------------------|-----------------------|
| Waldport, Oregon | 229C2                 |

9. IT IS FURTHER ORDERED, That the proposal to reallocate Channel \*252C3 from Dallas, Oregon, to Turner, Oregon, is DENIED.

10. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail, Return Receipt Requested, a copy of this Order to the following:

John E. Fiorini III, Esq.  
Scott Woodworth, Esq.  
Wiley Rein LLP  
1776 K Street, N.W.  
Washington, D.C. 20006  
(Counsel for Radio Beam, LLC)

David J. Miller, President/General Manager  
Yaquina Bay Communications, Inc., and Pacific West Broadcasting, Inc.  
906 SW Alder Street  
Post Office Box 1430  
Newport Oregon 97365

William J. Byrnes, Esq.  
7921 Old Falls Road  
McLean, Virginia 22102  
(Counsel for Radio Bilingue, Inc.)

11. The window period for filing applications for Channel 229C2 at Waldport, Oregon, will not be opened at this time. Instead, the issue of opening a filing window for this allotment will be addressed by the Commission in a subsequent *Order*.

12. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

---

<sup>7</sup> See 5 U.S.C. § 801 (a)(1)(A).

13. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072. Questions related to the application filing process for Channel 229C2 at Waldport, Oregon, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau